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RUEHBR/AMEMBASSY BRASILIA 7422
RUEHBU/AMEMBASSY BUENOS AIRES 4683
RUEHCV/AMEMBASSY CARACAS 1933
RUEHPE/AMEMBASSY LIMA 1985
RUEHLO/AMEMBASSY LONDON 0091
RUEHMD/AMEMBASSY MADRID 3168
RUEHME/AMEMBASSY MEXICO 1858
RUEHMN/AMEMBASSY MONTEVIDEO 4134
RUEHFR/AMEMBASSY PARIS 0096
RUEHQT/AMEMBASSY QUITO 4572
RUEHSG/AMEMBASSY SANTIAGO 9146
RUEHRI/AMCONSUL RIO DE JANEIRO 0870
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C O N F I D E N T I A L LA PAZ 002967

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STATE FOR WHA/AND
TREASURY FOR SGOOCH
ENERGY FOR CDAY AND SLADISLAW

E.O. 12958: DECL: 10/31/2016
TAGS: ECON EINV ENRG EPET BL
SUBJECT: GAS CONTRACTS HAVE VARIABLE RETURN RATES

REF: A. LA PAZ 2943

¶B. LA PAZ 2900
¶C. LA PAZ 2880

Classified By: Ecopol Chief Andrew Erickson for reason 1.4 (e).

¶1. (C) Summary: The new contracts signed by hydrocarbons production and exploration companies on October 27 and 28 (ref A) contain tables of variables, including investment and production figures, which will be used to calculate company returns and the state oil company YPFB's take. The amount of return will vary by field and will likely range from 18 to 50 percent. Hydrocarbons Minister Villegas announced that contracts would be presented for congressional approval by November 20. Despite press announcements otherwise, according to Repsol, Chaco, Vintage, and BG executives, the contracts do not contain forced investment clauses. The markets guaranteed by the Gas Supply Agreements between YPFB and Brazil until 2019 and YPFB and Argentina until 2026, along with the lack of forced investment and sole risk clauses in the new contracts, shifted significant business risks from the producers onto YPFB, encouraging the companies to sign by the October 28 deadline. Chaco and BG said that they, along with several other producers, did not sign complete contracts but were still negotiating details with YPFB. U.S.-owned Vintage is pleased with the GOB's plan to favor producers with small fields. End summary.

Press Says Taxes Vary from 50 to 82 Percent

¶2. (SBU) The press reported on October 31 that the new contracts guarantee 50 percent return for the state (18 percent royalties plus 32 percent direct hydrocarbons tax

(IDH), as required by the May 2005 hydrocarbons law) plus a variable rate of return, of up to 32 percent, for YPFB. (Note: The May 2006 nationalization decree added a temporary 32 percent tax for YPFB on the two largest fields, San Alberto and San Antonio, operated by Petrobras. End note.) The percentage return for YPFB will vary based on company profits, according to the press. YPFB will sell company production, receive payment directly, and use the income to pay the 18 percent royalties and 32 percent IDH to the national treasury. It will decide how much to pay the companies for their services based on formulas which vary by field and will keep the rest. The press reported that Petrobras (Brazil) was pleased to sign a new contract with variable tax rates, because since the May 2006 decree, it had been paying 82 percent and would now pay less. Hydrocarbons Minister Carlos Villegas told the press that the contracts would be presented for congressional approval prior to November 20 in hopes of finalizing them before congress ends its session in mid-December.

Repsol Says Returns Based on Table of Variables

¶3. (C) According to Repsol (Spain/Argentina) executive Albaro Pedrazas, the information in the press was not quite accurate. He said that the companies did not agree to pay 18 percent in royalties or 32 percent in IDH in their contracts, but that all taxes/company return calculations were a function of a variable formula. He explained that one of the contract annexes contains tables of variables, including investment amounts, amount of investments recouped, production amounts, operating costs, and gas prices that will be used to determine how much the companies receive from YPFB for their services. Company reimbursement rates will vary by field, but will likely range from 18 to 50 percent with operators of larger fields receiving lower percentages. He added that negotiations regarding Repsol share sales to YPFB were ongoing. He said that Repsol may invest up to USD 1 billion in the development of the Margarita gas field; however, the company did not commit to this in its new contract. He was hopeful that it would be possible for Bolivia to meet its gas supply commitments to Argentina if companies began to increase investments.

Chaco Signed Incomplete Deal and PAE Did Not Sign

¶4. (C) Chaco (Partially U.S.) Vice President Jana Drakic told Econoff on October 31 that Chaco had signed an incomplete contract, as had many other operators. Negotiations over contract annexes and Chaco share sales to YPFB are ongoing. She said that the amount of return that Chaco would receive was not completely clear. Chaco did not commit to making investments in the contract. Chaco's main shareholder is Pan American Energy (PAE). PAE is 60 percent owned by BP America, which was formed by the merger of Amoco and BP. According to Drakic, PAE has one operation in Bolivia that is separate from Chaco and has not yet signed a new contract with YPFB for that operation.

Vintage Promised Greater Return and Assured Market

¶5. (C) Vintage (U.S.) President Jorge Martignoni said that Vintage signed a final contract and that it was pleased that the government promised to issue a decree to benefit producers with small fields. He told Econoff on October 31 that such producers would receive a higher percentage return than producers with large fields and also would be given preference for gas sales to Argentina. He explained that the promised decree would allow companies producing less than 0.5 million cubic meters per day to be first in packing the pipeline to Argentina, assuring a market for their production. Martignoni confirmed reports by Repsol and Chaco that the companies were not forced to invest by the new

contracts. He explained that the guaranteed market and lack of forced investment clauses had shifted significant business risks away from the companies and onto YPFB, encouraging the companies to sign new contracts.

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Contracts Contain No Forced Investment Clauses
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¶6. (C) According to the British DCM Steve Townsend, based on conversations with British Gas (BG) on October 30, the contract that BG signed was incomplete. BG inserted several caveats to protect itself in case the final contract contained undesirable elements. Townsend said the contracts contained no forced investment clauses and no clauses forcing the companies to assume all of the risks, despite an earlier version of the model contract that was published in the press stating otherwise (ref B). He agreed with Martignoni, stating that the lack of investment commitments, along with assured markets, significantly reduced the risk for the companies and encouraged them to sign. He said that BG thought meeting the recently contracted supply commitments to Argentina (ref C) within three years would be extremely difficult, as only three exploration rigs are currently in Bolivia and it could take several years to get enough rigs to increase production by the required amount.

¶7. (C) Comment: The variable tax rates, the shifting of risk to YPFB, the lack of forced investment clauses, and the prospect of supplying the Argentine market based on the October 19 contract (ref C) provided incentives for the hydrocarbons companies to sign new contracts by the October 28 deadline. Although the GOB met its decree-imposed deadline publicly, in reality, important contract details remain to be worked out with several companies before the contracts can be presented to congress for approval. The lack of contractual commitments to invest in exploration and exploitation on the part of the companies sheds doubt on Bolivia's eventual ability to meet its contracted supply obligations. End comment.
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